IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1677 OF 2007.
AND
WRIT PETITION NO. 1685 OF 2007

Yasin Mohammed Gous Inamdar. ... Petitioner.
(In both the petitions.)

Versus.

Dr.Annasaheb Chougule Urban Coop. Bank Ltd. and others. ... Respondents.
(In both the petitions.)

Shri Raju Yamgar i/by Ms.S.D.Khot and Ms.Meena Pradhan for the Petitioner in both the petitions.

Shri Sameer S.Tambekar for the Respondent No.1 in both the petitions.

Ms.Mhaispurkar, A.G.P. for Respondents Nos.2 and 3 in both the petitions.

CORAM : ABHAY S.OKA, J.

DATED : 14th June, 2007.

P.C.:

1. Heard the learned Advocates appearing for the contesting parties. Heard the learned A.G.P. for the 2nd and 3rd Respondents. Considering the controversy involved in the petition, the same is taken up for final disposal at admission stage.

2. In both the petitions the 1st Respondent applied for a recovery certificate under section 101 of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "the said Act of 1960"). On the basis of the said application, recovery certificate was granted by the Assistant Registrar of Cooperative Societies. The Petitioner filed Revision Applications for challenging the Recovery Certificate. By the orders

impugned in these petitions, the Divisional Joint Registrar rejected the Revision Applications on account of the failure of the Petitioner to comply with sub-section 2A of section 154 of the said Act of 1960.

3. It is not in dispute that in both the petitions, the Petitioner has paid a sum of Rs.1,10,000/- to the 1st Respondent. The learned Advocate for the Petitioner states that some more amount has been recovered by the 1st Respondent in execution of the recovery certificate. In order dated 9th March 2007, this Court has noted the statement made by the Advocate for the Petitioner that the Petitioner was ready and willing to comply with the provisions of sub-section 2A of section 154 of the said Act of 1960 if reasonable time to deposit the said amount is granted.

4. The learned Advocate for the Petitioner on instructions of the Petitioner states that the time of four months be granted to pay the balance amount. The said prayer is opposed by the Advocate for the 1st Respondent by submitting that for a long time the 1st Respondent was unable to recover any amount from the Petitioner.

5. Under sub-section 2A of section 154 of the said Act of 1960, a Revision Application against recovery certificate under section 101 of the said Act cannot be

entertained unless the Revision Applicant deposits with the concerned society 50% of the total amount of the recoverable dues. The Petitioner has shown willingness to comply with the requirement of the said provision. The Petitioner has paid some amount as per the assurance given which is recorded in the order dated 9th March 2007. Considering the facts and circumstances of the case, time upto 13th September 2007 deserves to be granted to the Petitioner to comply with the requirement of the statute by depositing the balance amount with the 1st Respondent. The Petitioner will have to satisfy the Divisional Joint Registrar that the compliance is made with sub-section 2A of section 154 of the said Act as of today.

6. Hence the Writ Petitions are disposed of by the following order:

(i) If the Petitioner complies with the requirement of sub-section 2A of section 154 of the said Act of 1960 by depositing 50% amount of the total amount of recoverable dues as of today on or before 13th September 2007, the impugned orders will stand set aside and the Revision Applications will stand restored.

(ii) The parties are directed to approach the

Divisional Joint Registrar of Cooperative Societies on 14th September 2007. On that day the Petitioner will produce necessary documentary evidence before the Divisional Joint Registrar to satisfy him that the compliance has been made with the requirement of sub-section 2A of section 154 of the said Act of 1960.

(iii) If compliance is not made by the Petitioner on or before 13th September 2007, the orders impugned in this petition will continue to operate. However, if compliance is made, the Revisional Authority will proceed to decide the Revision Applications as expeditiously as possible.

(iv) Till 14th September 2007, no coercive steps shall be taken against the Petitioner on the basis of the Recovery Certificates.

(v) The Writ Petitions are disposed of in the above terms with no order as to costs.

Judge.